

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GARY W. COOPER and U.S. POSTAL SERVICE,
POST OFFICE, Fort Worth, TX

*Docket No. 00-862; Submitted on the Record;
Issued April 25, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a medical condition or any disability causally related to factors of his federal employment.

This case is on appeal to the Board for the second time. On March 8, 1996 appellant, then a 51-year-old mailhandler, filed an occupational disease claim, alleging that beginning November 27, 1995 he became aware of pain and soreness in his spine, upper back and right arm that was causally related to his work on the back dock. In a supplemental statement, appellant indicated that he had to pull heavy containers from a truck onto the back dock and that he did this work repeatedly. He noted that beginning November 27, 1995, while moving the heavy containers, he noticed pain radiating down his right arm and into both hands, as well as pain in his left knee and a loss of motion in his right arm.

In a decision dated May 10, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the medical evidence did not establish a causal connection between the claimed conditions and the identified work factors. By decision dated July 15, 1996, the Office denied appellant's request for a hearing as untimely filed. In a merit decision dated August 22, 1996, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted was insufficient to warrant modification of the prior decision.

In *Gary W. Cooper*,¹ the Board found that the Office had improperly denied appellant's request for a hearing as untimely filed and remanded the case for the Office to adjudicate the merits of appellant's claim. By decision dated November 2, 1999, an Office hearing representative found that although appellant sustained an employment-related right shoulder tendinitis, there was no disability due to that condition. The Office hearing representative

¹ Docket No. 97-518 (issued March 5, 1999). The facts and history surrounding the prior appeal are set forth in the Board's decision and are hereby incorporated by reference.

further found that appellant did not have a work-related back condition. Accordingly, the Office hearing representative affirmed in part and reversed in part the May 10, 1996 decision of the Office.

The Board has duly reviewed the case record and finds that appellant's employment-related right shoulder tendinitis did not result in any disability from work. The Board further finds that the question of whether appellant has a work-related back condition is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

The medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

The record contains medical evidence from only two physicians, Dr. E. Inyang and Dr. Robin Gunning. In a December 11, 1996 handwritten note, Dr. Inyang diagnosed tendinitis and stated that it might resolve with rest. He added that repetitive motion can result in tendinitis or could worsen a prior mild case.

In an August 11, 1996 report, Dr. Inyang stated that appellant was seen on December 4, 1995 and February 27, 1996 for severe right shoulder pain. Appellant provided a history of doing repetitive activities involving his upper extremities, which involved pulling and lifting for several days prior to the onset of his symptoms. Dr. Inyang stated that the physical examination at that time revealed markedly tender right anterior shoulder with restriction in range of motion. Appellant was conservatively treated with anti-inflammatories and pain medication with a recommendation that he rest his right upper extremity. Dr. Inyang opined that appellant's symptoms were consistent with repetitive motion injury.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Ern Reynolds*, 45 ECAB 690, 695 (1994); *Gary L. Fowler*, 45 ECAB 365, 371 (1974).

Based on Dr. Inyang August 11, 1996 report, the hearing representative properly found that appellant's right shoulder tendinitis was work related. However, a recommendation to rest without any supporting documentation is insufficient to show that appellant was totally disabled due to the right shoulder tendinitis condition. Therefore, the hearing representative also properly found that the record did not establish any disability from work as a result of the right shoulder condition.

Appellant also claimed a back condition beginning November 27, 1995. The only medical evidence is a form report dated October 13, 1996 from Dr. Gunning for an office visit of October 10, 1996. Dr. Gunning diagnosed a thoracic spine strain, stated that appellant could return to limited-duty full-time work in 10 days and noted a history of injury starting in December 1995 with time out of work for recovery. Dr. Gunning also wrote: "September. Pain started when he was lifting heavy sacks and he noticed sharp pain in his back when he turned on his seat of the forklift. Appellant took off one week starting September 28, 1996 but the pain is still bothering him so he came in to see me for this office visit."

The Office hearing representative properly found that there was no contemporaneous evidence of any back injury in November and December 1995. Dr. Gunning offered no opinion on the matter and merely referenced appellant's medical history as told to him. However, Dr. Gunning's October 13, 1996 report clearly documents that appellant's October 10, 1996 thoracic spine strain arose out of work conditions in September 1996 and that appellant was totally disabled until October 20, 1996. Accordingly, Dr. Gunning's report constitutes sufficient evidence to require further development of the record by the Office on appellant's entitlement to compensation for a thoracic spine strain from September 1996 until October 20, 1996.⁵

⁵ See *John J. Carlone*, 41 ECAB 354 (1989).

The November 2, 1999 decision of the Office of Workers' Compensation Programs is affirmed in part and the case is remanded to the Office for proceedings consistent with this decision.

Dated, Washington, DC
April 25, 2001

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member